

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ERNESTO ASUNCION and U.S. POSTAL SERVICE,
POST OFFICE, Montgomery, AL

*Docket No. 03-1476; Submitted on the Record;
Issued August 8, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant established that he sustained an injury in the performance of duty.

On November 7, 2002 appellant, then a 59-year-old training technician, filed an occupational disease claim (Form CA-2) for right carpal tunnel syndrome. Appellant explained that he spent the majority of his workday at a computer keyboard inputting data into employee personnel files. He further stated that he did not have symptoms of carpal tunnel syndrome prior to his May 21, 2002 right rotator cuff surgery. Appellant identified September 23, 2002 as the date he first became aware of his condition. He first realized his condition was employment related on October 7, 2002.

The relevant medical evidence accompanying appellant's claim included treatment records from Dr. Donald F. Hodurski, a Board-certified orthopedic surgeon, and a May 21, 2002 operative report for right rotator cuff repair. Dr. Hodurski's treatment notes of April 18 and May 2, 2002 indicated that appellant had a painful right shoulder, which Dr. Hodurski diagnosed as a complete tear of appellant's right rotator cuff. Additionally, Dr. Hodurski indicated that appellant underwent a rotator cuff repair on May 21, 2002 which was successful. His note of September 23, 2002 indicated that appellant had symptoms of hypoesthesia in his entire hand, both medially and in the ulnar distribution and Dr. Hodurski was not sure if this was from the block or carpal tunnel syndrome. On October 7, 2002 Dr. Hodurski diagnosed appellant with right severe carpal tunnel syndrome which required release surgery. The operative report noted that appellant underwent a resection arthroplasty and acromionectomy and rotator cuff repair and appellant was diagnosed with arthritis and tear of the rotator cuff.

In a letter dated December 5, 2002, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish his claim and requested that he submit such evidence. The Office particularly requested that appellant submit

a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors.

Additional relevant evidence submitted included March and April 2002 treatment records from Dr. Louisa M. Tolentino, a Board-certified family practitioner, regarding appellant's right shoulder condition. The Office also received an October 2, 2002 electrodiagnostic study that revealed moderately severe right carpal tunnel syndrome.

Appellant submitted a narrative statement in which he indicated that Dr. Hodurski's nurse informed him that the doctor stated that the right carpal tunnel syndrome "[was] not related/caused by right rotator cuff surgery." Appellant also stated that his right shoulder injury was due to a fall he sustained at work on August 9, 2001.

On February 19, 2003 the Office denied appellant's claim. The Office found that the medical evidence was not sufficient to establish that his medical condition was caused by employment factors.

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty.

In order to establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.²

The medical evidence of record fails to demonstrate that appellant's claimed right carpal tunnel syndrome is employment related. On his November 7, 2002 Form CA-2, appellant explained that he spent the majority of his workday at a computer keyboard inputting data. He also indicated that he underwent surgery for a torn right rotator cuff on May 21, 2002 and that his current symptoms developed subsequent to his surgery. The record does not include a single medical report attributing appellant's claimed right carpal tunnel syndrome to his employment. Dr. Tolentino, who initially treated appellant for right shoulder pain in March and April 2002, did not address the cause of appellant's condition or even suspect the presence of carpal tunnel syndrome. Additionally, while Dr. Hodurski suspected carpal tunnel syndrome in September 2002 and diagnosed severe carpal tunnel syndrome on October 7, 2002, the doctor's treatment

¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

² *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

notes do not specifically address the cause of appellant's condition.³ Lastly, while Dr. Hodurski's nurse reportedly informed appellant that the doctor stated that the right carpal tunnel syndrome "[was] not related/caused by right rotator cuff surgery," this third-hand account of what Dr. Hodurski purportedly stated to his nurse does not constitute medical evidence.⁴

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁵ Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence, and the Office, therefore, properly denied appellant's claim for compensation.

The February 19, 2003 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
August 8, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

³ On September 23, 2002 when he first reported symptoms of hypesthesias in appellant's right hand, Dr. Hodurski stated that he did not know whether this was from the block or carpal tunnel. His October 7, 2002 diagnosis of severe right carpal tunnel syndrome was supported by an October 2, 2002 nerve conduction velocity study that revealed moderately severe right carpal tunnel syndrome.

⁴ Moreover, even if the accuracy of the statement could be confirmed, the alleged statement does not indicate that appellant's right carpal tunnel syndrome is employment related, but merely that it is unrelated to his May 21, 2002 right rotator cuff surgery.

⁵ See *Victor J. Woodhams*, *supra* note 1.